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Chairperson: Mr. Penke ..... (Latvia)

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The meeting was called to order at 3.05 p.m.

Agenda item 69: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/64/226 and A/64/290)

Dialogue with special procedures mandate holders, Chairpersons of human rights treaty bodies or Chairpersons of Working Groups (*continued*)

1. **Ms. Manjoo** (Special Rapporteur on violence against women), recalling the most recent report of her predecessor to the Human Rights Council (A/HRC/11/6), devoted to the issue of the political economy of women's rights, said that she agreed with the finding in that report that understanding of and responses to violence against women should be broadened to take into account the causes and consequences of that violence, as evidenced in women's poverty, employment exploitation, socio-economic inequality with men and their exclusion from decision-making in both the public and private spheres. She also referred the Committee to the 15-year review submitted by her predecessor at the eleventh session of the Council and said that she would continue to examine the universality of violence against women and the multiplicity of its forms and underscore the need, for States in particular, to adopt a holistic approach in efforts to eliminate violence against women.

2. She would be undertaking her first official mission, to Kyrgyzstan, in November 2009. Requests for visits had been made to the Governments of Jordan, Turkmenistan and Uzbekistan in 2008 and she had recently renewed a request for an official visit to Zimbabwe. Her office would contribute to the follow-up to the report on technical assistance and capacity-building for the Democratic Republic of the Congo by the seven thematic special procedures submitted to the Human Rights Council at its tenth session. The dramatic situation of violence against women in that country continued to be of grave concern to her mandate.

3. She recalled that her predecessor, in the context of Human Rights Council resolution S-9/1 on the grave violations of human rights in the Occupied Palestinian Territory particularly due to the recent Israeli military attacks against the occupied Gaza Strip, had reviewed the situation of violence against women in those areas in the aftermath of the Israeli military attacks. In that regard she noted that the effects on women of a patriarchal society were exacerbated by the pressures of occupation.

4. Stressing the importance of cooperation with non-governmental organizations (NGOs) both as a source of information for her office and a means for NGOs to promote their initiatives, she said that she would participate in a consultation on sexual violence against women and girls in situations of peace, to be held in Zambia in November 2009; a consultation on sexual and reproductive rights, to be held in Bangkok in December 2009; and another consultation to be held in Central America in early 2010. She welcomed the growing frequency of such consultations and the increasing number of new organizations involved. She was committed to strengthening that model of engagement and called upon Member States to support initiatives of that type.

5. She had identified some areas that required attention. With regard to due diligence standards, she would address the issue of redress and reparation for wrongs committed by State and non-State actors, which would be the theme of her report to the Human Rights Council in 2010, as well as the issue of prevention measures at both the individual and community levels. Further development of the intersectoral approach adopted by her office was likewise necessary to address the multiple forms of discrimination and human rights violations.

6. In addition, she would strengthen the work of her office, for example through follow-up to country missions, and communications to Governments relating to situations or individual cases of concern. She would also reinforce cooperation with other human rights mechanisms and treaty bodies, in particular the Committee on the Elimination of Discrimination against Women.

7. The report of the Secretary-General on the in-depth study on all forms of violence against women (A/61/122/Add.1) had described violence against women as both universal and particular, affecting all societies and having many forms and manifestations in specific contexts. She therefore underscored the urgency of intensifying efforts to eliminate all forms of violence against women. The forthcoming Beijing+15

review and the thirtieth anniversary of the Convention on the Elimination of All Forms of Discrimination against Women provided an opportunity to act and meet the ultimate goal of eliminating all forms of violence against women.

8. **Mr. Javaheri** (Sweden), speaking on behalf of the European Union, wondered how States could strengthen cooperation with the Special Rapporteur. The previous Special Rapporteur's report to the Human Rights Council, on the political economy of women's rights, had underscored the link between socio-economic inferiority of women and violence against them, and he asked for recommendations on the most effective ways of empowering women with a view to eliminating violence against them and, in that context, wondered how the new composite gender entity could contribute to that goal. Lastly, he asked for the Special Rapporteur's views on the contribution of the Human Rights Council universal periodic review process to addressing the problem of violence against women and for any recommendations she might make in that regard.

9. **Ms. Gendi** (Egypt) regretted that no written report had been provided and requested an explanation from the Secretariat. She asked how the Special Rapporteur envisaged her relationship and cooperation with the new composite gender entity as well as with other special procedures.

10. **Ms. Taylor** (New Zealand) said that her delegation was acutely aware of the effects of natural disasters, in particular with regard to violence against women, as highlighted in the report of the previous Special Rapporteur (A/HRC/11/6) and expressed concern at the lack of planning to prevent violence against women in post-disaster recovery efforts as had been underscored for example by the United Nations International Research and Training Institute for the Advancement of Women (INSTRAW) and by the United Nations Human Settlements Programme (UN-HABITAT). She asked whether the Special Rapporteur was aware of any additional research in that regard.

11. **Ms. Kohli** (Switzerland) welcomed the strengthening of international efforts to combat impunity in the area of violence and sexual violence against women, in for example the Rome Statute of the International Criminal Court and Security Council resolution 1888 (2009). She asked how the Special Rapporteur could contribute to those efforts and how she would collaborate with the various stakeholders. Turning to the issue of female genital mutilation, she said that more attention should be given to the role that migration destination countries could play in combating that phenomenon.

12. **Ms. Halabi** (Syrian Arab Republic) asked for the Special Rapporteur's opinion on how to address the problem of human rights violations and impunity on the part of Israel in the Occupied Palestinian Territory, including the Gaza Strip, and whether some mechanism should be created in that regard. She asked whether the Special Rapporteur would in the future report on the specific situation of violence against women in those territories as well as other occupied territories, including the Syrian Golan.

13. **Mr. Stenvold** (Norway) asked why, in the opinion of the Special Rapporteur, the structured relations of production and reproduction that governed the distribution of resources and authority within the home and society at large were often neglected in analysis of violence against women and strategies to combat it.

14. **Mr. Abu-Haya** (Israel) said that protection of the rights of the most vulnerable must be a priority for the international community. His delegation was encouraged by the efforts of United Nations mechanisms to adopt strategies and frameworks to eliminate violence against women but regretted the lack of efforts on the part of States and in some areas of the world to combat the stigmatization and exploitation of women, for example regarding access to education, domestic violence, honour killings and female genital mutilation.

15. He also expressed concern at the particular vulnerability of women to recruitment by terrorist groups and at violations of women's basic rights by such groups, a phenomenon that had escaped the attention of the international community. He asked the Special Rapporteur to provide information on the level of cooperation by States in combating violations of women's rights, with her as well as with other United Nations mechanisms, including visits to States of special concern.

16. **Ms. Boisclair** (Canada) welcomed the strengthening of international efforts to develop norms and ensure accountability in the area of violence against women. She underscored the importance of

country visits in helping States eliminate violence against women and called on all States to welcome such visits. She asked for more information on the issues identified by the Special Rapporteur as requiring attention, for example due diligence standards.

17. **Ms. Taracena Secaira** (Guatemala) said that the time had come to state clearly that the primary factor in violence against women was the actions of men. The main thrust in eliminating violence against women must be to change men's paternalistic and patriarchal mindsets. She wondered if the Special Rapporteur had any guidance on how best to help men accept the need to eliminate violence against women by identifying their responsibility in campaigns and strategies aimed at combating violence against women.

18. **Ms. Horsington** (Australia) said that her Government had implemented a series of three-year plans as part of its long-term commitment to the elimination and prevention of violence against women and children. She asked whether the Special Rapporteur envisaged the development of indicators on violence against women that could be used to assist in planning and to compare the situation of violence against women in various countries.

19. **Ms. Stefan** (Liechtenstein) said that while the normative framework for the elimination of violence against women had been strengthened, practical implementation remained unsatisfactory. She expressed concern at continuing impunity for perpetrators of violence against women, in particular in patriarchal societies and situations of armed conflict. She therefore welcomed the adoption of Security Council resolution 1888 (2009) and wondered how the Special Rapporteur envisaged her interaction with the Security Council in that context. More information would also be welcome on the Special Rapporteur's future workplans.

20. **Ms. Sicade** (United States of America) asked what specific efforts should be undertaken by the United Nations system, including the General Assembly, the Commission on the Status of Women and the Human Rights Council, to combat violence against women as well as to increase the economic self-sufficiency of women.

21. **Ms. Masaquiza** (Ecuador) stressed the importance of including indigenous women's organizations, which were not always represented in NGOs, in consultations with civil society and efforts aimed at addressing the problem of violence against women. She asked whether the Special Rapporteur would increase cooperation with women parliamentarians to promote national legislation to improve the situation of women bearing in mind instruments adopted by the United Nations.

22. **Mr. Gustafik** (Deputy Secretary of the Committee), in response to the representative of Egypt, explained that since the Special Rapporteur had only recently begun her work, in August, 2009, the Human Rights Council had decided that she should make an oral report only at the current session of the General Assembly.

23. **Ms. Manjoo** (Special Rapporteur on violence against women) encouraged delegations to consult the reports on the political economy of violence against women (A/HRC/11/6) and on the 15-year review of the work of the mandate prepared by her predecessor. In response to the delegate of Sweden, with regard to country visits, she said that she could only request permission from the States concerned and encourage them to respond favourably. The economic empowerment of women depended on systemic structural factors, for example access to education and equal opportunity in the developed as well as the developing world and in both the private and public sectors. She looked forward to the benefits of the synergies that would be created by the new composite gender entity. The important work done by the current separate mechanisms must, however, be taken into account and she hoped the steering committee for the new entity would strengthen coordination of their work. She also welcomed the efforts of the Human Rights Council, in its universal review process, to integrate gender concerns in its work, and looked forward to advising the Council on issues relating to her mandate.

24. She looked forward to defining the role she would play in the implementation of Security Council resolution 1888 (2009). With regard to broader coordination matters, the mandates of the special procedures often overlapped and the mandate holders worked to develop synergies. For example, joint communications had been sent to Governments by various special procedures to express concerns or raise important issues. Joint reports might likewise be envisioned, and she noted her cooperation with the Special Rapporteur on adequate housing in that regard. She recalled, however, the limited resources available to the special procedures.

25. Turning to the question concerning violence against women in post-disaster situations, she said that issue had also been raised by the Representative of the Secretary-General on the human rights of internally displaced persons, with regard to camps for internally displaced persons. As for the issue of female genital mutilation, she stressed the importance of education in combating that scourge and cited the success of Gambia in significantly increasing the number of communities that had made a commitment to eliminate that practice. Generally speaking it was not enough to adopt laws aimed at eliminating violence against women; society must likewise be mobilized to prevent violence.

26. Replying to the delegate of the Syrian Arab Republic, she said that she would continue to report on the situation of women in the Occupied Palestinian Territory and the occupied Syrian Golan but recalled that her mandate had sufficient resources for only two missions a year. She reiterated that occupation exacerbated violence against women; further study of the effects of conflict and post-conflict situations on women, including situations of occupation was needed.

27. She reassured the delegate of Norway that she intended to fully examine the systemic problems at all levels that contributed to violence against women. In response to the delegate of Israel, she said that the low participation rate of States in studies and questionnaires from the Organization posed problems for the implementation of international norms and compilation of information on the situation in specific States. All delegations should encourage their Governments to be more forthcoming. While NGOs provided valuable information, it was likewise important to have an official response from Governments.

28. Turning to the question of due diligence, she stressed that merely adopting laws was no panacea. There must be a commitment at the national level to implementing those laws, including in federal systems where states or provinces had broad powers and indeed at all levels of government, given that delivery of services occurred at the local level.

29. With regard to the issue of the responsibility of men for violence against women, she noted that the Commission on the Status of Women had discussed the role of men and boys two years earlier and stressed the importance of bringing perpetrators to justice. The problem was a structural one; mindsets must be changed. Although progress had been made, Governments must monitor and follow up programmes aimed at men. She had received complaints, for example from Asia and Africa, that such programmes could at times strengthen patriarchy and traditional attitudes.

30. Her predecessor had prepared a thematic report on indicators and she believed the United Nations Statistical Commission had received a mandate to include in its work information on violence against women. She took due note of the call from the delegate of Ecuador to ensure indigenous women were represented in discussions of women's rights and stressed her commitment to ensuring that all stakeholders, including indigenous women, were represented at discussions of violence against women.

31. She reported annually to the Commission on the Status of Women and the Human Rights Council and would also report to the Committee on the Elimination of Discrimination against Women, although resources limited her ability to attend that Committee's sessions. Informal discussions had begun regarding sharing of information between her mandate and the Committee, for example with regard to their respective country visits. Delegations might consider adopting a resolution requesting her to report annually to that Committee.

32. **Ms. Ezeilo** (Special Rapporteur on trafficking in persons, especially women and children) said that her report (A/64/290) focused on the issues of identification, protection and assistance to victims of human trafficking, aspects that did not receive adequate attention from States. Proper identification of victims was the first step in providing them with the protection and assistance they needed. Citing the case of a migrant worker from the Philippines who had been trafficked to Malaysia for the purposes of prostitution, she said that victims were often at risk of being prosecuted for their activities in the destination country precisely because the authorities had failed to identify them as victims of trafficking.

33. Screening procedures often did not comply with the rights-based approach, in particular respect for victims' right to privacy, confidentiality and voluntary cooperation with the authorities. Understanding the definition of trafficking was fundamental for identifying victims and meeting their needs.

Unfortunately, although excellent guidance materials existed for identification processes, they were not well implemented by many countries and law enforcement agencies.

34. Her report underscored norms relating to protection of victims of trafficking, particularly in the context of criminal proceedings and protection of their human rights. States must implement measures to ensure that victims were not forced to testify and to ensure that their stay in the country or access to services did not depend on their willingness to testify. Neither should they be detained, charged or prosecuted for unlawful activities if that involvement was a direct consequence of their situation as trafficked persons. Victim witnesses especially required protection.

35. Appropriate assistance for victims of trafficking was crucial: it ensured rehabilitation, reintegration and redress for victims and prevented re-victimization and re-trafficking of the individuals concerned. Her report described some of the key services that Member States must provide, including adequate shelter, counselling, health care, translation and language support, legal representation and legal aid. Victims must also be offered the possibility of voluntary repatriation to their country of origin, with due regard for their safety, and the necessary assistance and support for reintegration so that they would not be victimized again. If there were fears of persecution or other repercussions the victim should be granted the right to remain in the destination country.

36. Capacity-building for the officials involved was essential for strengthening the identification, protection and assistance framework. They must be trained in the national and international legal and policy framework relating to victims of trafficking, with a clear emphasis on the human rights of victims.

37. The report drew attention to the specific vulnerability to trafficking of such groups as children, whether accompanied or unaccompanied, refugees, asylum-seekers, returnees, stateless persons and internally displaced persons. The screening process must be particularly responsive to those groups. The example cited in her report of a boy from Laos trafficked to Thailand illustrated the specific vulnerability of children to trafficking. States must adopt a child-centred approach to child victims. Improved access to education for children at risk of involuntary servitude or exploitation was central to reducing their vulnerability.

38. She had carried out a country visit to Belarus from 18 to 24 May 2009 and had been impressed by the Government's commitment to combating all forms of human trafficking in the country, but had also observed that challenges remained in the area of effective protection from a human rights perspective and that the assistance provided to victims was not sufficiently holistic and rehabilitative.

39. She had visited Poland from 24 to 29 May 2009. Trafficking had increased since Poland had joined the European Union and it had changed from being mainly a source country to being both a transit and destination country. The Government was making good progress in combating human trafficking but she remained concerned at the lack of a clear definition of trafficking in the law. Furthermore, prosecutions relating to trafficking were very long and victims did not always receive compensation and appropriate assistance, in particular in rural areas.

40. During her visit to Japan from 12 to 17 July 2009 she had observed that Japan was clearly a destination country for many victims of trafficking, generally for the purposes of prostitution and other forms of sexual exploitation but also for labour exploitation. The Government was undertaking impressive legislative and administrative reforms with a view to combating trafficking but she remained concerned that it had not ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol) and that the lack of a clear identification procedure could lead to the misidentification of victims of trafficking. She had also noted that the shelters were unsuitable and that the language services were inadequate.

41. She supported the elaboration of a global plan of action to combat human trafficking that would include sustained technical assistance and cooperation for the identification and protection of victims and provide a framework for monitoring progress and a road map for review of the Palermo Protocol. Such a plan would likewise provide an opportunity to link anti-trafficking initiatives to the achievement of the Millennium Development Goals, which would address the root causes of human trafficking.

42. Virtually every Member State was affected by trafficking; the global economic crisis had increased vulnerability to trafficking. Every Member State must therefore take concrete steps to fight human trafficking in a coherent, collaborative and sustained manner. The complexity of human trafficking likewise made concerted efforts on the part of the international community a crucial aspect of efforts to eliminate that phenomenon.

43. **Mr. Bennwik** (Sweden), speaking on behalf of the European Union, said that the European Union was committed to meeting the needs of victims of trafficking. He asked the Special Rapporteur, given her concerns about States' policies relating to victims of trafficking, what was the most significant step States could take to address the root causes of human trafficking effectively and to put in place adequate protection mechanisms. Measures in that regard, including training for officials, rehabilitation, reintegration and legal assistance programmes for victims, would benefit from strong cooperation among Governments and stakeholders. He wondered if the Special Rapporteur's mandate included the sharing of best practices; if not, how would she recommend bridging that gap?

44. **Mr. Al-Shami** (Yemen) recalled that discussions at the interactive thematic dialogue of the United Nations General Assembly on taking collective action to end human trafficking had led to the launching of negotiations on two possible courses of action: drafting a new global plan of action to combat trafficking or strengthening the implementation of existing instruments. He asked how those two approaches could be reconciled with a view to achieving a consensus and also asked for more information on measures that could be adopted to eliminate human trafficking.

45. **Ms. Sapag** (Chile) expressed concern that many States still had not ratified the Palermo Protocol and that only 86 States had responded to the questionnaire circulated by the Special Rapporteur in 2008. The Special Rapporteur might consider contacting the missions concerned to ascertain their reasons. She welcomed the Special Rapporteur's active participation in the Third World Congress against Sexual Exploitation of Children and Adolescents held in Rio de Janeiro in November 2008.

46. **Ms. Gendi** (Egypt) looked forward to the early adoption of a global plan of action to combat human trafficking, which would strengthen international efforts and the implementation of existing instruments. Inadequate coordination was a key failing in international efforts to combat trafficking, and she wondered why, although the political will clearly existed and there were excellent regional plans of action as well as bilateral cooperation, so many States still had not ratified the Palermo Protocol. She asked how a global plan of action could improve coordination of international efforts to combat human trafficking and underscored that human trafficking was a global problem that must be addressed through concerted efforts by Member States and the Organization.

47. **Ms. Sicade** (United States of America) said that the proactive identification and protection of victims required extensive financial resources, especially as no two cases were alike. She asked what advice the Special Rapporteur might give to Governments with minimal resources.

48. **Ms. Horsington** (Australia) said that her country was committed to cooperation with other States and organizations to combat human trafficking, particularly in the Asia-Pacific region. She encouraged all States to ratify the Palermo Protocol. Australia's anti-trafficking strategy gave equal weight to each phase of the cycle, from recruitment to reintegration. She wished to know how States could raise awareness of trafficking in persons outside the sex industry, in such contexts as the smuggling of labourers, for instance.

49. **Ms. Strauss** (Observer for the International Organization for Migration) said that she appreciated the fact that the issue of compensation was finally receiving increasing attention. She asked if the Special Rapporteur could comment further on ideas for a compensation scheme.

50. **Ms. Banzon-Abalos** (Philippines) said that existing national legislation was often geared more at criminal justice than at human rights and gender. She wondered how States could be encouraged to strengthen the human rights and gender dimension of their efforts to combat trafficking.

51. The United Nations Office on Drugs and Crime (UNODC) had recently found that women were also the recruiters or agents of human trafficking, and she wished to know if that aspect of the phenomenon had been studied.

52. **Mr. Ndimeni** (South Africa) said that his delegation coordinated with various international agencies, including UNODC and the Office of the United Nations High Commissioner for Refugees (UNHCR) on the topic of human trafficking. He wished to know how special rapporteurs addressed the overlap between those agencies, which often mirrored similar overlaps between the different ministries of national Governments.

53. **Ms. Sahussarungsi** (Thailand) said that as a destination, source and transit country for the victims of human trafficking, Thailand recognized the magnitude of the issue. In 2008, holistic measures had been put in place to address the problem. Nine shelters were available for victims, including one specifically for men and boys. However, the issue was a global one. She therefore urged the international community to cooperate and allocate ample resources to the fight against human trafficking.

54. **Ms. Kolontai** (Belarus) said that her Government had appreciated the recommendations made by the Special Rapporteur during her visit. She wondered what role civil society could play in decision-making at the United Nations level. Some delegations believed that Member States alone should determine plans and programmes, while others favoured including the opinion and proposal of civil society, whose representatives — including first-hand witnesses — had proved eager to make a contribution.

55. **Ms. Ezeilo** (Special Rapporteur on trafficking in persons, especially women and children) said that States must ratify the Palermo Protocol; there was no alternative approach. States should designate a national rapporteur to help collect data disaggregated by age, gender, etc. National rapporteurs also facilitated coordination within a given State.

56. States should formulate a national plan to bridge the knowledge gap, strengthen law enforcement and consolidate the legal and policy framework to prosecute traffickers. National legislation should include comprehensive definitions. An example could be found in article 3 of the Palermo Protocol. Her first report to the Human Rights Council (A/HRC/10/16) had pointed out the need to share good practices, a need which her forthcoming report would attempt to fulfil.

57. Responding to the comments of the representative of Yemen, she said that her statement at the Interactive Thematic Dialogue of the General Assembly on taking collective action to end human trafficking, held on 13 May 2009 had highlighted a number of questions that should be addressed in order to clarify the added value of the proposed global plan of action. In her assessment, that added value resided in the enhanced coordination and coherence which the global plan of action would make possible, in addition to its comprehensive approach.

58. Some States had not ratified the Palermo Protocol on the grounds that their national legislation was already sufficient; however, that argument was inadequate because the Protocol was by nature multilateral. Several international instruments suffered from a lack of ratifications, and she was not sure of the reasons. Ratification sent a clear signal that human trafficking would not be tolerated. The special event on "Giving voice to the victims and survivors of human trafficking" held on 22 October in the Economic and Social Council Chamber had drawn attention to the human angle of the problem. A mechanism must be found to provide generous compensation to the families whose lives had been shattered.

59. The international community had not yet found a way to coordinate effectively on the issue of human trafficking. Innovative approaches should be developed, especially with regard to human resources, gender perspectives, the victim-centred approach and the focus on prevention.

60. Many States wished to take action but lacked the necessary resources. International cooperation and technical assistance would help address that problem, and the United States of America and Japan had both played a valuable role. However, a genuine framework was needed in order to support such efforts. Regional action was important, as special rapporteurs lacked resources and could visit only three countries each year. One strategic objective of the Bali process should be to encourage ratification of the Palermo Protocol.

61. Responding to the comments made by the observer for the International Organization for Migration, she said victims often could not appeal for compensation during criminal proceedings. Civil proceedings were often initiated only at a later stage, which did not constitute an effective remedy. In some cases, such as that of Belarus, prosecutors had been trained to appeal for compensation automatically. Legislation should specifically address the question of

what constituted adequate compensation; she felt that current figures were often insufficient. The judiciary also needed to be trained and sensitized. She had recently encountered a case in which the perpetrator had been sentenced only to payment of a fine.

62. Her mandate encompassed a human rights, gender and age perspective, and she felt empowered by that holistic approach. There were indeed cases of women acting as recruiters for human trafficking, and it was not surprising that a victim could become an oppressor. She had recently encountered two cases of women who had been offered their freedom in return for recruiting girls.

63. She coordinated her efforts with other special procedures mandate holders in order to avoid duplication and maximize resources. Overlap between Government agencies was often a problem; she was often referred back and forth between departments. Competition between agencies sometimes led to information being withheld.

64. Responding to the comments made by the representative of Thailand, she said that the law enacted in 2008 constituted a positive step. She had asked to visit the country, and welcomed the Government's efforts to provide separate shelters for male victims.

65. Responding to the comments made by the representative of Belarus, she said that civil society organizations provided indispensable input and support. Member States should seek to include them in decision-making. During her visit to Poland, she had found that victims often trusted civil society organizations more than Government agencies.

66. **Ms. Sekaggya** (Special Rapporteur on the situation of human rights defenders), introducing her report (A/64/226), said that she had recently visited the Democratic Republic of the Congo and Colombia. Both visits had provided invaluable insights, and she was grateful to their Governments for their invitations and assistance. Her findings would be submitted to the Human Rights Council at its thirteenth session.

67. Her report focused on the right to freedom of association, and was intended to build on the report of the former Special Representative of the Secretary-General on human rights defenders (A/59/401). That report had provided a detailed overview of difficulties in the establishment and registration of human rights associations; State scrutiny into the management and activities of non-governmental organizations; administrative and judicial harassment and grounds and procedures for dissolution; and restrictions on funding.

68. The five years since the submission of that report had witnessed major challenges to the activities of non-governmental organizations. The report analysed the relevant legal framework at the international and regional levels. There was a growing trend towards the adoption of restrictive laws governing the functioning of non-governmental organizations, aimed at the disruption, and in some cases the complete elimination of their work.

69. The right to freedom of association could be suspended only in accordance with the International Covenant on Civil and Political Rights. In the wake of the events of 11 September 2001, Governments had increased their control over non-governmental organizations. Judicial review and transparency were often lacking, and in some cases, lengthy procedures restricted freedom of association. Members of non-governmental organizations could be directly appointed or removed by the authorities. Slander laws were sometimes used, as was the pretext that the organizations' activities damaged national pride. Governments often interfered by placing limits on funding and registration, criminalizing unregistered entities and levying excessive fines. There was often a lack of clarity regarding the period between registration and the granting of a licence, and registration could be denied outright. Excessive scrutiny by tax authorities could also be used against organizations critical of the Government. Restrictions on foreign funding could prevent non-governmental organizations from operating.

70. She commended States that had made it possible for non-governmental organizations to register, imposed few restrictions, did not require cumbersome procedures, and allowed appeal or review processes and foreign funding. In accordance with article 22 of the Covenant and article 5 of the Declaration on human rights defenders, national legislation should include the right to engage in lawful activities without registering as a legal entity. States should not criminalize or impose criminal penalties for activities in defence of human rights. Laws governing the establishment of non-governmental organizations should be clear and simple. Regulations should be applied in an independent, transparent and less burdensome or

lengthy manner, and re-registration should be required only in special circumstances. The process should be prompt, expeditious, easily accessible and inexpensive. The right of appeal should be clearly stated, and all involuntary termination should be subject to independent judicial review. Reporting obligations should be simple, uniform and predictable. States should not criminalize non-compliance with such laws; there should be adequate warning and opportunities to correct administrative infractions. Non-governmental organizations should be allowed to critique Government policies and to receive foreign funding.

71. **Mr. Vigny** (Switzerland) said that his delegation shared the concern of the Special Rapporteur at the growing number of laws which used public administration to restrict the activities of non-governmental organizations. He wished to know how the international community could best respond to that problem, and whether the universal periodic review mechanism of the Human Rights Council was an adequate instrument to do so. If so, he wondered whether a follow-up to the report was being considered in order for States to submit recommendations to the relevant Governments.

72. **Ms. Major** (Canada) said that her delegation was also concerned at the deteriorating situation of human rights defenders, and encouraged States to alleviate legal restrictions on their work. She asked what the international community could do to discourage Governments from criminalizing informal groups for the defence of human rights.

73. **Ms. Schlyter** (Sweden), speaking also on behalf of the European Union, said that the European Union shared the concern at the adoption of laws aimed at disrupting or eliminating the work of non-governmental organizations. The European Union was disturbed at the frequent detention of human rights defenders and the criminalization of their activities.

74. The Special Rapporteur had provided helpful guidance regarding how States could ensure that their legislation was transparent and not burdensome, and she asked if she could identify some examples of good practice. She also wondered if the Special Rapporteur could comment further on safeguards to protect non-governmental organizations from intimidation or harassment.

75. Lastly, the report of the Special Rapporteur stated that vague definitions of terrorism, extremist activities and slander provisions allowed for arbitrary application. She wished to know whether and how the Special Rapporteur would cooperate with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression or the Special Rapporteur on the promotion and protection of human rights while countering terrorism.

76. **Ms. Tvedt** (Norway) asked if the Special Rapporteur could mention any best practices which could help ensure that laws, procedures and timelines were clear. She also wondered if the Special Rapporteur could elaborate on how restrictions on human rights defenders could affect women specifically.

77. **Ms. Ketover** (United States of America) said that her Government was committed to strengthening the efforts of human rights defenders, who played a crucial role in holding Governments accountable. She wondered which countries imposed the greatest obstacles to the freedom of association.

78. **Ms. McBreen** (Ireland) noted that the Special Rapporteur had referred to legislation that allowed the authorities to interfere with the activities of non-governmental organizations. She wished to know if the Special Rapporteur could give some examples of how a system of independent judicial review could help to curb such legislation.

79. **Ms. Sapag** (Chile) asked whether the Special Rapporteur could comment further on the negative impact of burdensome requirements for re-registration.

80. **Ms. Hogg** (United Kingdom) said that her delegation was concerned at continuing reports that human rights defenders were being detained, convicted or even killed. She asked how the Special Rapporteur would use her role to ensure the effective protection of human rights defenders around the world, and asked for recent examples of best practices creating an enabling environment for non-governmental organizations.

81. Her delegation supported the recommendation that independent human rights organizations should be free to participate in public policy debates, including debates about and criticism of existing or proposed State policies or actions, without any distinction between national and foreign organizations. She asked if the Special Rapporteur could comment further on how she would tackle that aspect of her mandate.

82. Her country remained concerned about repressive measures taken against human rights defenders around the world, including in the Islamic Republic of Iran and in the Russian Federation, and she asked if the Special Rapporteur had any plans to visit those countries.

83. **Ms. Horsington** (Australia) asked if the Special Rapporteur could refer to some specific examples of best practices with regard to laws regulating the registration of non-governmental organizations.

84. **Ms. Pérez Álvarez** (Cuba) noted that the Special Rapporteur's report recommended that Governments must allow access by non-governmental organizations to foreign funding, and that such access may be restricted only in the interest of transparency, and in compliance with generally applicable foreign exchange and customs laws. At the same time, the report rightly stated that there might be various reasons for a Government to restrict foreign funding, including the prevention of money-laundering and terrorist financing.

85. Although grateful for the comprehensive and detailed report, she felt that it should take into account situations in which foreign Governments funded groups that were attempting to destabilize a country or region. Such groups were not genuine non-governmental organizations or human rights defenders; they were mercenaries, whose actions included terrorism and military coups. In order to highlight that perspective, the Special Rapporteur could coordinate with the Working Group on the use of mercenaries.

86. **Ms. Ahuja** (India) wondered whether there were any particular guidelines on how to reach a balance between legitimate concerns about terrorism and money-laundering on the one hand, and the risk of undue restrictions on foreign funding on the other hand.

87. **Mr. Geurts** (Observer for the European Community) said that as a major donor to civil society, the European Community welcomed the focus on the right to free association. He wondered how States might engage with partners with regard to legislation regulating non-governmental organizations. That issue had been raised by members of civil society at a seminar of the Africa-European Union Partnership held in Brussels in April 2009.

88. He also asked how the Special Rapporteur would address the issue of restrictions on foreign funding, and whether she could recommend any best practices.

89. **Ms. Sekaggya** (Special Rapporteur on the situation of human rights defenders) said that re-registration procedures placed non-governmental organizations in limbo. Once an organization was registered, the presumption should be that its activity was legal.

90. The universal periodic review was an extremely valuable instrument. It gave States the opportunity to explain their activities and raise any issues. Her previous report (A/63/288) had discussed how the issue of human rights defenders could be raised at the universal periodic review. The process allowed States to review one another and share best practices.

91. She could not say which countries imposed the most restrictions. Although there was much information on best practices, she did not intend to point to countries for criticism. Instead, she called on States to examine best practices in order to consider amending their own legislation.

92. Through her mandate, she had raised the issue of the protection of human rights defenders in various ways including communications, urgent appeals, country visits and thematic studies. In so doing, she had aimed to find out what was happening on the ground and receive responses.

93. The Declaration on human rights defenders said that the work of non-governmental organizations should be lawful. Her discussion of the topic presupposed that the non-governmental organizations in question acted within the law. Any suspicion to the contrary should be investigated and brought to justice. Many non-governmental organizations were restricted despite conducting their work legally.

94. The final part of her report listed a number of good practices; she called on delegations to examine them in detail. With regard to the gender dimension, she said that criminalization and non-registration often affected organizations defending women and vulnerable groups. Such cases required particular attention.

95. **Mr. Mamdouhi** (Islamic Republic of Iran), speaking in exercise of reply to the comments made by the representative of the United Kingdom, said that it was unfortunate that certain States abused United

Nations human rights mechanisms. The facts had been distorted in order to cast aspersions on the situation of human rights defenders in the Islamic Republic of Iran. His country had taken measures in order to guarantee the right to freedom of association. Non-governmental organizations actively promoted and protected human rights. Within the Government, a range of departments and agencies were upholding citizens' rights and formulating new and advanced human rights standards. A number of groups within Parliament and at the local level defended the rights of women, children and migrants.

The meeting rose at 6.05 p.m.